

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.18057 of 1997

Dated: 01.3.2007

Between:

K.V.Prasad.

... Petitioner

AND

A.P.State Road Transport Corporation,
Rep by Managing Director, Hyderabad.

And others.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.18057 of 1997

ORDER:

The award of the Labour Court, Guntur in I.D.No.151 of 1994 dated 6.3.1996 to the extent of denial of back wages to the petitioner while directing his reinstatement with continuity of service, is under challenge.

It is not in dispute that the petitioner, a conductor in Machilipatnam depot, faced departmental proceedings in which the following charge was framed:

“ For having collected an amount of Rs.62/- (rupees sixty two only) towards requisite fare from a passenger who boarded the bus at Visakhapatnam and bound for Eluru i.e., ex-stages 19 to 5 and issued tickets worth Rs.17/- and kept the balance amount of Rs.45/- with you, thereby you have failed to issue a valid passenger ticket in accordance with the orders passed by the Corporation, which constitutes misconduct under Reg.28 (vi) (a) & (xxxii) of APSRTC Employees (Conduct) Regulations 1962.”

In the domestic enquiry got conducted by the respondents 1 to 3, the petitioner was found guilty of the charge framed against him. This order was eventually questioned in I.D.No.151 of 1994 in which the impugned award is made.

Heard Sri M.Shiva Kumar for Sri Venkata Rangadas Kanuri for the petitioner and none appears for the respondents.

Sri Shiv Kumar, learned counsel for the petitioner submitted that the denial of back wages by the Labour Court is illegal and that the same causes huge monetary loss to the petitioner. He therefore, requested for setting aside of the award of the Labour Court to that extent and for a direction to the respondents 1 to 3 to pay the back wages.

I have perused the award. The Labour Court has clearly agreed with the disciplinary authority that the petitioner was guilty of misconduct, inasmuch as while having collected fare of Rs.62/- from the passenger, the petitioner issued tickets worth Rs.17/- comprising the denominations of Rs.10/-, Rs.5/-, and Rs.2/-. It is apt to extract the relevant portion of the award of the Labour Court:

“ Here the conductor in his explanation to the charge sheet submitted that the bus was started at Machilipatnam by 19.30 hrs., towards Visakhapatnam and after starting Machilipatnam, he is suffering from stomach ache and vomiting sensation enroute and dispute he discharged his duties and due to tyre failure and fan belt trouble the bus delayed for about 8 hours and he could not find time for relaxation and when the bus checked at Anakapalli bus station, T.T.Is., found issue of lesser denomination tickets to the passengers and he came to know about the mistake checking passengers and he came to know about the mistake checking of Rs.5/- denomination from the try in stead of Rs.50/- denomination and it happened due to mistake and he had not fraudulent motive. It is the legitimate duty of the conductor to issue correct ticket for the fare collected by him from the passengers but here in this case even though the claimant conductor collected an amount of Rs.62/- from the passenger he issued only ticket for Rs.17/- and not for Rs.62/- and but for the check he would have been in a position to retain an amount of Rs.45/-. The Enquiry Officer issued his report that though the explanation submitted by the conductor is convincing but he failed to perform his legitimate duty of issuing valid ticket to a passenger and therefore he upheld the charge against the claimant. Here under these circumstances the conductor is liable for the charge.”

However, on the quantum of punishment the Labour Court felt that the punishment of removal from service is too disproportionate to the gravity of the charge and therefore, it has directed reinstatement with continuity of service and without back wages.

The law is well settled that under Section 11-A of the Industrial Disputes Act 1947 the Labour Courts/Tribunals are vested with discretion in imposing the penalties. It is held in **Om Kumar vs Union of India**^[1], **Union of India and Another vs G.Ganayutham**^[2], **Divisional Controller, K.S.R.T.C. (N.W.K.R.T.C.) vs A.T.Mane**^[3], **V.Ramana vs APSRTC**^[4] and **Ram Saran vs I.G.of Police, CRPF AND ANOTHER**^[5] that if the penalty imposed on the workman shocks the judicial conscious of the Courts/Tribunals the quantum of penalties can be interfered with and be varied by imposing lesser punishment. The Labour Court has already exercised that discretion in the instant case by modifying the penalty of removal from service into one of reinstatement with continuity of service but without back wages. I do not therefore see any error in the discretion exercised by the Labour Court in denying back wages to the petitioner. Ex facie the charge that the petitioner intended to retain Rs.45/- by issuing a ticket of lesser denomination is serious in nature and the labour Court, in my view, is justified in denying back wages to the petitioner while ordering his reinstatement with continuity of service.

For the aforementioned reasons, the writ petition is liable to be dismissed and is accordingly dismissed. No order as to costs.

Dt:01.3.2007

Mdaa.

[\[1\]](#) (1995) 6 SCC 749
[\[2\]](#) (1997) 7 SCC 463
[\[3\]](#) (2005) 3 SCC 254
[\[4\]](#) (2005)7 SCC 338
[\[5\]](#) (2006) 2 SCC 541